

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #11	CCRB Case #: 202003711	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/28/2020 6:30 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 11/28/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 8:00 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/31/2020 8:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Javier Munoz	3421	935373	INT EPU

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Javier Munoz	Abuse: Detective Javier Munoz entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 Javier Munoz	Abuse: Detective Javier Munoz threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.DT3 Javier Munoz	Abuse: Detective Javier Munoz threatened to arrest § 87(2)(b)	§ 87(2)(b)
D.DT3 Javier Munoz	Abuse: Detective Javier Munoz threatened to notify Administration for Children's Services.	§ 87(2)(b)
E.DT3 Javier Munoz	Abuse: Detective Javier Munoz seized § 87(2)(b) s property.	§ 87(2)(b)
F.DT3 Javier Munoz	Abuse: Detective Javier Munoz seized § 87(2)(b) s property.	§ 87(2)(b)
G.DT3 Javier Munoz	Abuse: Detective Javier Munoz searched § 87(2)(b) s recording device.	§ 87(2)(b)
H.DT3 Javier Munoz	Abuse: Detective Javier Munoz searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
I.DT3 Javier Munoz	Abuse: Detective Javier Munoz refused to show the search warrant to § 87(2)(b)	§ 87(2)(b)

### Case Summary

On May 31, 2020, § 87(2)(b) filed this complaint with the CCRB via the agency's website.

On May 28, 2020, at approximately 6:30 a.m., § 87(2)(b) was at home with her daughter, § 87(2)(b) and § 87(2)(b)'s baby daughter at § 87(2)(b) in Brooklyn when officers from the Financial Crimes Task Force (FCTF) forcefully entered to execute a search warrant at the residence (**Allegation A: Abuse of Authority**, § 87(2)(g)). Det. Javier Munoz of FCTF was lead investigator and present for the warrant's execution. Det. Munoz allegedly told § 87(2)(b) he would arrest her if she did not cooperate with police or lied to them, and if he found anything illegal in the apartment, he would arrest her and § 87(2)(b) and contact the Administration for Children's Services regarding § 87(2)(b)'s child (**Allegation B: Abuse of Authority**, § 87(2)(g)) (**Allegations C and D: Abuse of Authority**, § 87(2)(g)). He initially seized § 87(2)(b)'s and § 87(2)(b)'s cellphones, before seizing other property including clothing and cash, and allegedly searched § 87(2)(b)'s cellphone (**Allegations E to G: Abuse of Authority**, § 87(2)(g)). Det. Munoz searched the apartment (**Allegation H: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) asked several times for a copy of the search warrant and did not see one while officers were at the residence with her (**Allegation I: Abuse of Authority**, § 87(2)(g)).

No arrests were made, and no summonses were issued during the incident.

No video evidence was identified by the investigation.

### Findings and Recommendations

**Allegation A – Abuse of Authority: Detective Javier Munoz entered § 87(2)(b) in Brooklyn.**

**Allegation E – Abuse of Authority: Detective Javier Munoz seized § 87(2)(b)'s property.**

**Allegation F – Abuse of Authority: Detective Javier Munoz seized § 87(2)(b)'s property.**

**Allegation G – Abuse of Authority: Detective Javier Munoz searched § 87(2)(b)'s recording device.**

**Allegation H – Abuse of Authority: Detective Javier Munoz searched § 87(2)(b) in Brooklyn.**

§ 87(2)(g)  
Officers damaged the door and/or its frame when they entered without knocking, which made it difficult afterward to close. Det. Munoz entered after members of the Emergency Services Unit (ESU) made this forced entry. Det. Munoz stated he had a warrant and was searching the entire apartment for anything illegal. He brought § 87(2)(b) and § 87(2)(b) together into the living room. He asked for both of their cellphones, which they both provided. He asked them about the last time they each saw or spoke to § 87(2)(b)'s partner, § 87(2)(b). At some point, he asked § 87(2)(b) to verify that she spoke to § 87(2)(b) the day prior by providing her passcode so he could access her call log. Det. Munoz opened her phone to check this himself and handed it back to her. He did not return § 87(2)(b)'s phone. Det. Munoz proceeded to search the entire apartment, including the bathroom, bedrooms, and closets. After officers left, § 87(2)(b) and § 87(2)(b) saw that officers had also taken \$1000 of § 87(2)(b)'s cash kept under § 87(2)(b)'s mattress, § 87(2)(b) clothing, and an Apple watch.

Det. Munoz confirmed that he executed a no-knock search warrant during this incident to look for clothing belonging to § 87(2)(b) who was a suspect in an investigation led by Det. Munoz, electronics, and cash (BR 03). He did not recall how ESU entered the apartment. He did not recall any damage to the front door but recalled the superintendent of the building speaking to another officer at some point and assumed it had to do with damage to the door. Det. Munoz was the only officer who searched the apartment since he was the lead investigator. He found and seized electronics and money found in one of the bedrooms. He also found and seized cellphones and § 87(2)(b).

§ 87(2)(b)'s clothing. No cellphones were taken from § 87(2)(b)'s or § 87(2)(b)'s persons. Det. Munoz did not recall ever asking them for their phones, though he noted he did not need to ask for permission to take them due to the search warrant and did not recall asking § 87(2)(b) for her cellphone's passcode. He did not recall asking § 87(2)(b) or § 87(2)(b) when they last spoke to § 87(2)(b) or taking any steps to verify that on their cellphones. He did not recall ever opening or accessing any phones at the apartment.

Search warrant § 87(2)(b), dated § 87(2)(b), requested by Det. Munoz and signed by the Honorable § 87(2)(b), permitted officers to enter § 87(2)(b) in Brooklyn without knocking and search for various articles of clothing, evidence of the proceeds of an illegal grand larceny and burglary scheme, correspondence regarding any such proceeds, large quantities of cash, cellular telephones and any other computing devices along with any records showing the passwords used to secure or limit access to such devices (BR 04).

Vouchers of property invoiced by Det. Munoz following this incident records the seizure of \$1060 in cash, two cellphones and accessories, an Apple watch, and letters addressed to § 87(2)(b) including from Chase bank (BR 05).

Officers who have obtained a valid search warrant are permitted to enter the premises listed on that warrant and conduct a full and thorough search for contraband and need not give notice to anyone of their authority and purpose if the search warrant expressly authorizes entry without notice Criminal Procedure Law Article 690.50 (BR 06).

§ 87(2)(g)

#### **Allegation B – Abuse of Authority: Detective Javier Munoz threatened to arrest § 87(2)(b).**

§ 87(2)(b) stated that, after ESU made entry into the apartment and her bedroom, Det. Munoz came in her bedroom to speak with her. He asked § 87(2)(b) if there was anything illegal in the apartment, which she denied. He told her that if she did not cooperate with officers, he would arrest her. When § 87(2)(b) was moved into the living room with § 87(2)(b) Det. Munoz told her that he was going to search the entire apartment and if he found anything illegal then he was going to arrest § 87(2)(b) among other consequences.

§ 87(2)(b) stated that when § 87(2)(b) was brought into the living room, § 87(2)(b) told officers that she did not know where § 87(2)(b) was. When Det. Munoz searched the apartment, he found § 87(2)(b) clothing in a closet. He accused § 87(2)(b) of lying and told her if he found out she was indeed lying, he would arrest her. Near the end of Det. Munoz's search of the apartment, Det. Munoz told § 87(2)(b) that if he found anything illegal, he would arrest her, among other consequences.

Det. Munoz stated he was familiar with § 87(2)(b) due to her involvement in a search warrant the FCTF had conducted at her address in March 2020, during which she was arrested for § 87(2)(b), § 87(2)(a) 160.50. Det. Munoz told § 87(2)(b) that if officers found anything illegal in her apartment § 87(2)(b), § 87(2)(a) 160.50 or any other dangerous contraband, he would arrest her. He did not mean this as a threat, but a provision of information. He did not recall when this conversation occurred. Det. Munoz never told § 87(2)(b) that if she did not cooperate then he would arrest her. Det. Munoz never told § 87(2)(b) that if she was lying then he would arrest her since this was not a crime.

Det. Munoz only admitted threatening to arrest § 87(2)(b) when discussing the potential of § 87(2)(b), § 87(2)(a) 160.50 other contraband being located within her apartment. He disputed he allegations that he threatened to arrest § 87(2)(b) for lack of cooperation and lying, § 87(2)(g)

§ 87(2)(g)

**Allegation C – Abuse of Authority: Detective Javier Munoz threatened to arrest § 87(2)(b)**

**Allegation D – Abuse of Authority: Detective Javier Munoz threatened to notify Administration for Children's Services.**

§ 87(2)(b) stated that, after ESU made entry into the apartment and her bedroom, Det. Munoz came in her bedroom to speak with her. He asked § 87(2)(b) if there was anything illegal in the apartment, which she denied. When § 87(2)(b) was moved into the living room with § 87(2)(b) Det. Munoz told her that he was going to search the entire apartment and if he found anything illegal then he was going to arrest § 87(2)(b) and § 87(2)(b) and call ACS regarding § 87(2)(b)'s daughter.

§ 87(2)(b) stated that near the end of Det. Munoz's search of the apartment, Det. Munoz told § 87(2)(b) that if he found anything illegal, he would arrest her, § 87(2)(b) and hand the baby over to ACS. § 87(2)(b) was § 87(2)(b) old at the time of the incident.

Det. Munoz stated he was familiar with § 87(2)(b) due to her involvement in a search warrant the FCTF had conducted at her address in March 2020, during which she was arrested for § 87(2)(b), § 87(2)(a) 160.50. Det. Munoz told § 87(2)(b) that if officers found anything illegal in her apartment, § 87(2)(b), § 87(2)(a) 160.50 any other dangerous contraband, he would arrest her. He did not mean this as a threat, but a provision of information. Det. Munoz told her that if certain things are found in the apartment that put § 87(2)(b)'s baby in danger, officers are mandated to notify ACS. He did not mean this as a threat, but a provision of information. He did not recall when this conversation occurred. He never threatened to arrest § 87(2)(b) since he believed she was a minor, with § 87(2)(b) being the only adult present.

Officers must notify ACS when they believe a child's physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of their parent to exercise a minimum degree of care in providing the child with proper supervision by creating a substantial risk of harm to the child NYPD Patrol Guide Procedure 215-03 (BR 08). If the parent(s) or guardian(s) of a dependent child under 18 is/are arrested while with their dependent child under eighteen years old, and no relative or friend can care for that child, officers must notify ACS NYPD Patrol Guide Procedure 215-01 (BR 16).

§ 87(2)(g)

§ 87(2)(g)

**Allegation I – Abuse of Authority: Detective Javier Munoz refused to show the search warrant to § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) provided consistent testimony regarding this allegation. § 87(2)(b) initially asked Det. Munoz when he first entered her bedroom if she could see the warrant and he told her it was coming. In the living room while Det. Munoz searched the residence, § 87(2)(b)

§ 87(2)(b) asked again to see the warrant and another officer told her it was coming. After officers left, § 87(2)(b) called Det. Munoz on his cellphone and told him he did not leave any copy of the warrant. Det. Munoz told her it had slipped his mind, but he would come back to provide her a copy, and they discussed it further via text message. § 87(2)(b) stated she was leaving. Det. Munoz told her he would leave it under the door and later confirmed he did so. She found a copy of the warrant had been left under her door.

Det. Munoz stated officers had the copies of the warrant with them and showed § 87(2)(b) one. Det. Munoz did not recall at what specific point he showed her the warrant. He forgot to leave a copy with her but had intended to do so. After leaving, § 87(2)(b) called or texted Det. Munoz stating she wanted copy of warrant. He returned to § 87(2)(b)'s apartment to provide her a copy. When she texted that she had left, he told her he would continue there. He slid a copy of the warrant under the locked door. § 87(2)(b) did not ask him for a copy of the warrant until after officers left. Det. Munoz never refused to provide the warrant to § 87(2)(b).

§ 87(2)(b) provided screenshots of her text messages with Det. Munoz (BR 09).

§ 87(2)(b) provided her own photograph of search warrant § 87(2)(b) (BR 10).

In executing a search warrant, a police officer must give, or make reasonable effort to give, residents notice of their authority and purpose and show the warrant or a copy thereof upon request Criminal Procedure Law Article 690.50.

§ 87(2)(g)

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 11).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 12).
- Det. Munoz has been a member-of-service for 17 years and has been a subject in 16 other CCRB complaints and 44 other allegations, none of which were substantiated (see officer history). § 87(2)(g)

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of October 13, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR 13).
- § 87(2)(b)
- § 87(2)(b)

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Squad: 11

Investigator: Benjamin Shelton Supv. Inv. Benjamin Shelton 2/11/22  
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 02/11/22  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date